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DE RUEHFR #1785/01 1241437  
ZNY CCCCC ZZH  
P 041437Z MAY 07  
FM AMEMBASSY PARIS  
TO RUEHC/SECSTATE WASHDC PRIORITY 6949  
INFO RUCNIAD/IGAD COLLECTIVE  
RUEHXR/RWANDA COLLECTIVE  
RUEHBJ/AMEMBASSY BEIJING 1483  
RUEHBS/AMEMBASSY BRUSSELS 6231  
RUEHTC/AMEMBASSY THE HAGUE 2760  
RUCNDT/USMISSION USUN NEW YORK 1224

C O N F I D E N T I A L SECTION 01 OF 02 PARIS 001785

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E.O. 12958: DECL: 05/04/2017

TAGS: PREL PGOV ICJ RW DJ FR

SUBJECT: DJIBOUTI AND RWANDA: RECENT DEVELOPMENTS ON FRANCE'S JUDICIAL ENGAGEMENTS

REF: KIGALI 391

Classified By: Political Minister-Counselor Josiah Rosenblatt, 1.4 (b/d).).

**¶1.** SUMMARY: (C) MFA DAS-equivalent Helene Le Gal on April 30 said that recent developments in the Borrel case, involving judicial searches of the MFA and Justice Ministry, largely involved internal French legal issues. The Borrel case continued to affect France-Djibouti relations, although both sides tried to carry on "business as usual" in other areas. Le Gal reported with regret that France-Rwanda relations were at a standstill, with no official contact between the two sides, and with neither maintaining an official presence in the other. Le Gal noted litigation at the International Court of Justice with both Djibouti (seeking release of the Borrel files) and Rwanda (seeking to quash France-generated warrants against Rwandan officials), with both cases expected to last many months, if not years, before their resolution. The Borrel case has also created friction among a number of GOF agencies, leading to more media attention than the case itself might otherwise warrant.  
END SUMMARY.

DJIBOUTI

**¶2.** (C) MFA DAS-equivalent for East and Central Africa Helene Le Gal discussed Djibouti and Rwanda on April 30. She said that recent developments in the Borrel case (involving the mysterious 1995 death of French magistrate in Djibouti and his widow's continuing efforts to overturn the finding of suicide) now centered on the lawsuit brought by his widow after then-MFA spokesperson Herve Ladsous (currently French Ambassador in Beijing) publicly stated in January 2005 that the GOF would provide its case files to Djibouti in a spirit of cooperation. Mrs. Borrel sued the MFA, claiming that Ladsous's "promise" was an improper attempt to pressure investigative judge Sophie Clement into releasing the files. Le Gal said that Ladsous based his original statement on advice received from the Justice Ministry. (See Paris Points for April 17.) However, after he made his statement, Clement said that she would not release the files and the Justice Ministry, in deference to Clement, rescinded its previous advice, thus leaving Ladsous, Le Gal suggested, out to dry.

**¶3.** (C) Le Gal confirmed that investigative judges involved in Mrs. Borrel's suit against the MFA searched the MFA (April 19) and Justice Ministry (April 20), seizing a fair number of documents and records. Le Gal reminded that none of this had anything to do with determining how Borrel died but rather concerned only Ladsous's "promise" to release the files and why that "promise" was made.

¶4. (U) NOTE: The press reported that Gendarmerie personnel who would normally have participated in the April 19 and 20 searches of the MFA and Justice Ministry refused to do so because of their "political" nature on the eve of France's presidential elections. The investigative judges instead received assistance from the judicial police of Paris suburb Nanterre to carry out their searches. The investigative judges on May 2 attempted to conduct a similar search of the offices of the French Presidency, specifically, its Africa cell. The judges were rebuffed by the Presidency's security unit, which said that such a search would be illegal under French law protecting the Presidency from such searches because of separation-of-powers concerns. (See Paris Points for May 3.) END NOTE.

¶5. (C) At the same time Mrs. Borrel was suing the MFA in order to prevent Djibouti from receiving the files (Mrs. Borrel and her supporters have alleged that the Government of Djibouti may have been complicit in her husband's death), Le Gal noted, not without irony, that Djibouti was suing France at the International Court of Justice (ICJ) to have the files released. Le Gal said that the ICJ case would take months, if not years, to resolve, noting that Djibouti had six months to file its initial pleadings, after which France would have six months to respond. Other steps would follow after similarly well-spaced intervals. Le Gal noted investigative Judge Clement's subpoenas to have senior Djiboutians, including President Guelleh, testify in her ongoing investigation into Borrel's death, but Le Gal said that immunity of one kind or another would likely protect them from being compelled to do so.

¶6. (C) Le Gal said that despite these several complicated

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and distracting legal matters, both sides were trying to conduct "normal" relations. Although the Djiboutians remained quite concerned about the Borrel case (especially the possibility that certain individuals might have to testify in French courts), Le Gal indicated that they understood better the independent role of the French judiciary and were becoming more inclined to let the Borrel case play itself out separately and to minimize its effect on overall relations. Still, the Djiboutians were continuing with their ICJ suit.

#### RWANDA

¶7. (C) Le Gal was far less optimistic about Rwanda. She said glumly that official contact between the two sides had ceased to exist. All official French activities in Rwanda had stopped and all official GOF personnel had departed. The same was true of the Rwandan Embassy and its personnel in Paris. The only French in Rwanda were long-term expatriates, missionaries, and French who worked for NGOs, with Belgium overseeing French interests. Le Gal regretted this state of affairs and expressed a degree of bitterness towards anti-terrorism Judge Bruguiere's November 2006 report accusing President Kagame and some of his associates of involvement in the killing of then-President Habyarimana and others, which precipitated the 1994 genocide. The report led to international arrest warrants against nine senior Rwandans and a recommendation that Kagame face charges for involvement in Habyarimana's death. The report caused Rwanda to sever relations with France.

¶8. (C) Le Gal said that neither side was taking any steps to improve or restore relations, which she seemed to regret. Rwanda was attempting at the ICJ to quash the warrants generated by Bruguiere's report (ref A). Le Gal said that France had recently agreed that the ICJ had jurisdiction over the Rwandans' complaint. She predicted, as in the Borrel case, a long and time-consuming litigation, with many months or even years before its resolution. As a practical matter, she indicated that the warrants would not likely impede legitimate government travel by those against whom the

warrants were issued.

¶9. (C) COMMENT: Le Gal was clearly disappointed that the Borrel case was proving to be such a distraction. However, she made clear that, in terms of bilateral relations, it was an irritant, albeit not a trivial one. Within the GOF, the case has generated interagency rancor and bureaucratic disruption, involving the MFA, Justice Ministry, Judge Clement, the magistrature (which has strongly supported Clement's independence as an investigative judge), the Gendarmerie, and now the Presidency. This in turn has increased the media's interest, more so than might otherwise be warranted. Given Mrs. Borrel's repeated success in drawing attention to the case on a periodic basis (this time at the peak of France's presidential election season), we expect that it will return as a prominent issue from time to time. Regarding Rwanda, Le Gal's outlook was notably bleak, and she was less able than she had been in the past to conceal her frustration over everything that has happened since the issuance of Bruguiere's report. END COMMENT.

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